

# Office of Attorney General Terry Goddard



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## **Terry Goddard Expands Lawsuit Against Second Chance Body Armor**

(Phoenix, Ariz. –August 17, 2004) Attorney General Terry Goddard has filed an amended complaint against bulletproof vest manufacturer Second Chance Body Armor to allege that the company knew the vests manufactured with “Zylon®” fibers being worn by law enforcement officers were rapidly deteriorating, but failed to warn the officers of the problem. The amendment is based on information discovered by the State since the original complaint was filed earlier this year.

In January, the State charged Second Chance with violation of the Arizona Consumer Fraud Act in connection with bulletproof vests manufactured with Zylon® fiber. The State alleged that based on scientific “aging” tests, Second Chance knew Zylon® degrades rapidly and permanently when exposed to such common conditions as high humidity and heat, fluorescent light and sunlight. The complaint further alleged the company failed to disclose this information or even warn its customers about these test results.

The problems with Zylon® were made public after June 2003, when a Forest Hills, Pennsylvania police officer was seriously injured by a .40 caliber bullet that passed through his Second Chance “Ultima®” vest.

“Since filing the complaint in January, we discovered Second Chance’s misconduct was even more egregious than we first alleged,” Goddard said. “Not only was Second Chance aware that Zylon® fiber degrades in laboratory tests, but the company also knew the vests being used in the field were rapidly degrading, and yet Second Chance continued to manufacture and sell these vests without warning its customers.”

The amended complaint alleges that:

- During the summer of 2001, Second Chance began conducting tests on used Zylon vests collected from law enforcement officers and comparing those test results to control vests. The field vest tests confirmed that their ballistic protection was declining at an alarming rate.
- By December 2001, Dr. Aaron Westrick, Second Chance’s Director of Research, recommended the company immediately notify its customers of the degradation problems the company was experiencing with its Ultima® body armor. He stated that “lives and our credibility are at stake.” Second Chance took no action to warn its customers even though thousands of law enforcement officers wore the vests.

- Other internal documents produced by Second Chance reveal the company's awareness of the problem. A July 2002 document entitled "Letter to the Executive Board by Richard C. Davis, company president" predicted that "after five years many Zylon® vests will have lost 20 percent of their [ballistic protection]." Yet, the letter recognized that Second Chance's current course was to "continue operating as though nothing is wrong until one of our customers is killed or wounded, or Germany, Japan, Dupont, or some other entity exposes the Zylon® problem."

Shortly after the Forest Hills police officer was wounded while wearing a Second Chance vest, the company informed its customers that it discontinued two Zylon® models, the Ultima® and the Ultimax®, citing an "unexpected" decrease in Zylon's strength. In April 2004, Second Chance also discontinued the "Tri-Flex®," a "hybrid" vest that uses Zylon® and other materials that provide ballistic protection.

The Attorney General's complaint seeks a full refund of the purchase price of the Zylon vests, even though Second Chance has offered its Ultima® and Ultimax® customers a choice between free "upgrades" to the defective vests and price discounts on non-Zylon replacement vests.

"The 'upgrade packs' are not certified by the National Institute of Justice and therefore provide inadequate assurance of protection" Goddard said. "While Second Chance customers are allowed to 'trade in' the ineffective vests, the company only allows for a partial credit on the trade in and requires vest owners to pay additional money before Second Chance will supply a functional vest."

"Additionally, Second Chance has offered no trade-in credit for the Tri-Flex® vest even though the company has discontinued the vest," Goddard concluded.

The Attorney General's complaint seeks to:

- Force Second Chance to refund the full price of all Zylon® vests purchased since July 1998.
- Prevent Second Chance from selling any Zylon® body armor in Arizona until Second Chance has established to the satisfaction of the Court that the body armor will protect the wearer throughout the period for which the armor is warranted.
- Impose a penalty of up to \$10,000 for each willful violation of the Consumer Fraud Act.

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